Alan F. Ciamporcero
Vice President

1275 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20004
(202) 383-6416

EX PARTE OR LATE FILED

PACIFIC TELESIS
Group/Washington

July 3, 1996

EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: CC Docket Nos. 96-45 and 96-98/Availability of Pacific's Cost Proxy Model

In both the Universal Service docket (CC Docket 96-45) and the Interconnection docket
(CC Docket 96-98), Pacific Telesis Group ("Pacific") has explained the benefits of using
its Cost Proxy Model. A concern has been raised that the model contains proprietary
information that other parties cannot have access to or verify.

While certain information contained in the Cost Proxy Model does need to be protected,
all of the information upon which the model is based can be made available to the
Commission and to other parties. This letter will set out the road map for this available
information.

To run our model, jointly developed by INDETEC International, Inc. and Pacific Bell, a
recipient must have a SAS software package (commercially available) on its computer, as
well as an Excel spreadsheet capability. We understand that SAS is available from the
SAS Institute in Cary, North Carolina for about $1000-$2500 per person.

Secondly, our model, on diskette, has already been submitted to the Commission in
Docket 96-45 under a Request for Confidentiality from Freedom of Information Act
scrutiny in order to protect our trade secrets in the software code. We now request that it
be associated with and available in the Docket 96-98 proceeding as well. As we stated in
our Request for Confidentiality, the software diskette is available, at no charge, as long as
a recipient signs a software licensing agreement agreeing not to use the software for
purposes other than examining the model in connection with CC Docket Nos. 96-45 or 96-
98 proceedings. The CPM demonstration diskette may be obtained by contacting counsel
for Pacific Telesis Group, Nancy Woolf, Esq. at 415-542-7657. A copy of the software
license agreement is attached hereto.

William F. Caton
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Our model contains customer location data that has been commercially obtained from a third party vendor. The diskette contains that customer location data for a sample of California. Inputs of customer location data for other states would need to be arranged for by the recipient. One such vendor is Stopwatch Map in St. Louis, Missouri.

In addition, the back up material underlying Pacific's inputs to the model is available for verification. In the recent California proceeding on universal service, all underlying data was disclosed to the participants in that proceeding (AT&T, MCI, Sprint, cable companies, etc.) and verified. The input data used in the Cost Proxy Model is based on Pacific's statewide averages. Individual wire center information is obviously quite proprietary. However, Pacific has submitted that information to the FCC under a Request for Confidentiality and is willing to make that same information available to any party to these proceedings, upon execution of a Nondisclosure and Protective Agreement, a copy of which is attached hereto. The Nondisclosure Agreement is essentially the agreement mandated by the California Public Utilities Commission for use in the OANAD proceeding on unbundling and universal service, and which has been executed by the participants in the California proceeding.

Please associate this letter and attached material with the above-referenced dockets. We are submitting 2 copies of this notice in accordance with section 1.1206(a)(1) of the Commission's Rules. Please stamp and return the provided copy to confirm your receipt.

Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Alan F. Ciamporcero

cc: James Schlicting
    Suzanne Tetreault
    Anthony Bush

NONDISCLOSURE AND PROTECTIVE AGREEMENT

This Nondisclosure and Protective Agreement ("Agreement") is effective

this _____ _____ by and between Pacific Bell ("Pacific") and

counsel of record for _____ ("Counsel") in the above-

referenced proceeding.

WHEREAS, Counsel have requested Pacific provide certain information

and produce certain documents in connection with the Universal Service proceeding

(CC Docket No. 96-45) or Interconnection proceeding (CC Docket 96-98) pending

before the Federal Communications Commission ("Proceeding"); and

WHEREAS, certain of the information, requested by Counsel may

constitute trade secrets or proprietary and confidential, commercial, or financial

information;

ACCORDINGLY, the parties here agree and their counsel agree that the

following terms and conditions shall govern the use of such information provided to one

party by the other in the context of this Proceeding:

1. "Confidential Information" as used herein means any information in

written, oral, or other tangible or intangible forms which may include, but is not limited

to, ideas, concepts know-how, models, diagrams, flow charts, data, computer

programs, marketing plans, business plans, customer names, and other technical,

financial, or business information, which is designated as "confidential" or "proprietary"

by Pacific or Counsel in the belief that it contains a trade secret or other confidential

research, development, or commercial or financial information. All written Confidential

Information to be covered by this Agreement shall be identified by a restrictive legend

which clearly specifies the proprietary nature of the information and includes, but is not limited to, the information which Pacific has identified in response to data requests or during the course of this Proceeding as confidential and proprietary. If the Confidential Information is provided orally, it shall be deemed to be confidential or proprietary if clearly identified as such by Pacific, and if within ten (10) business days after disclosure, the party providing the information confirms in writing that such information is subject to this Agreement. Documents containing Confidential Information produced by Pacific and all copies thereof shall remain the property of the Pacific, and all copies hereof shall be returned to Pacific upon Pacific's request after the conclusion of this Proceeding, including any appeals, *provided*, however, that Confidential Information made a part of the record in this Proceeding may be retained and must be kept secure by Counsel, and provided further that in lieu of return of Confidential Information on which Counsel has added notes or other annotations, Counsel may elect to destroy such Confidential Information and verify in writing to the Pacific that such destruction has occurred.

2. Any Confidential Information produced, revealed, or disclosed by Pacific in this Proceeding shall be used exclusively for purposes of participating in this Proceeding, including any appeals, and shall not otherwise be used or disclosed for any other purpose. The limitation on the use of disclosure of any Confidential Information disclosed during this Proceeding shall be construed to prohibit disclosure of the Confidential Information and to prohibit making decisions, participating in any decision-making processes, or rendering advice, legal or otherwise, wherein any information or

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knowledge derived from said Confidential Information is utilized in any manner other than for purposes of this Proceeding.

3. All persons receiving access to Confidential Information shall not disclose it nor afford access to it to any other person not authorized by this Agreement to obtain the Confidential Information, nor shall such Confidential Information be used in any other manner or for any other purpose than as provided in this Agreement.

4. The only persons authorized to receive Confidential Information under this Agreement are counsel for _____, and those other persons who qualify and sign an "Agreement for Access to Proprietary and Confidential Information" ("Agreement for Access"), a copy of which is attached hereto as Appendix A. Each Agreement limits access to Confidential Information to the person signing the Agreement and superiors of such people who have a need to know. Persons authorized to receive Confidential Information under this Agreement shall not disclose or divulge Confidential Information to any other person. Employees or agents of _____ who are engaged in developing, planning, marketing, or selling products or services, determining the costs thereof, or designing prices thereof, to be charged customers are expressly prohibited from access to Confidential Information, and Counsel shall use and store Confidential Information in such manner as shall prevent disclosure to such persons.

Certain Confidential Information will be identified as 'LAWYERS ONLY" and its authorized use extends only to attorneys, any Independent Consultant who is not an employee of _____, and regulatory employee(s) of _____ who have a need to know and who are not engaged in developing, planning, marketing,

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or selling products or services, determining the costs thereof, or designing prices thereof to be charged customers ("Permitted Employees"). Access to "Lawyers Only" Confidential Information by Consultants and Permitted Employees shall be by mutual agreement of Pacific and Counsel, which shall not be unreasonably withheld.

Certain Confidential Information will be identified as "NO COPIES" and its authorized use extends only to attorneys and Consultants on Pacific's San Francisco premises only. Copies will not be provided.

5. If Counsel intends to submit or use any Confidential Information such that it would result in a public disclosure of Confidential Information, including, without limitation, the presentation of prepared testimony, cross-examination, briefs, comments, protests, or other presentations before the Commission, the disclosing party shall contact Pacific as soon as possible, and where practicable, in no later than two business days prior to such use, and Pacific and Counsel shall constructively explore means of identifying the Confidential Information so that the proprietary interest therein may be reasonably protected, while at the same time enabling an effective presentation.

6. This Agreement does not preclude Pacific or Counsel from opposing the production of any information or documents for lack of relevance or from objecting on any grounds to the use of such information in any proceeding.

7. This Agreement shall continue in full force and effect until the Proceeding, including appeals, has ended.

8. Notwithstanding the expiration of this Agreement at the end of the Proceeding, the terms and conditions of this Agreement shall continue to apply to any Confidential Information provided by Pacific hereunder.

9. This Agreement shall benefit and be binding upon the parties hereto, their counsel, and each of their respective heirs, successors, assigns, affiliates, subsidiaries, and agents.

10. This Agreement shall be governed in accordance with the laws of the state of California.

_____
(Signature)

_____
(Print Name)

_____
(Business Address)

_____
(Business Telephone)

Counsel for _____

Date Signed: _____

PACIFIC BELL

_____
(Signature)
Nancy Woolf
140 New Montgomery Street
Room 1523
San Francisco, CA 94105

Date Signed: _____

APPENDIX A
AGREEMENT FOR ACCESS TO PACIFIC BELL'S
PROPRIETARY AND CONFIDENTIAL INFORMATION

I, _____ _____, _____,
　　　　(Print Name)　　　　　　　　　　　(Print Title)

an employee, officer, director, shareholder, agent, consultant, expert witness [circle appropriate response] of
_____ _____, located at _____
　　(Print Name of Firm)　　　　　　　　　　(Print Address)

_____, hereby acknowledge that I have received and read a copy of the Nondisclosure and Protective Agreement effective _____ between Pacific Bell ("Pacific") and

_____ _____ in connection with Federal Communications Commission Dockets Nos. 96-45 and 96-98. ("Agreement").

I understand and agree to be bound by all of the terms and provisions of the Agreement. I further state that neither I nor any firm with which I am affiliated will use any Confidential Information (as defined in the Agreement) to which I obtain access pursuant to said Agreement in connection with the development of any marketing strategies or plans of any firm, person, or entity and that I will use said Confidential Information exclusively for the purpose of participating in the Proceeding (as defined in the Agreement), including any appeals.

Dated: _____ _____, 1996 _____
　　　　　　　　　　　　　　　　　　　　　　　　　　　(Signature)

　　　　　　　　　　　　　　　　　　　　　　　_____
　　　　　　　　　　　　　　　　　　　　　　　(Business Address)

　　　　　　　　　　　　　　　　　　　　　　　_____
　　　　　　　　　　　　　　　　　　　　　　　(Business Telephone)

EXECUTION BY PACIFIC:

Dated: _____, 1996　　　_____
　　　　　　　　　　　　　　　　　　　　　　Pacific Bell

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SOFTWARE LICENSE AGREEMENT

This Agreement ("Agreement"), effective _____, 19__, is between Pacific Bell, a corporation and INDETEC International, Inc., a corporation ("Licensors"), and _____, a _____ _____ corporation ("Licensee"). The parties, intending to be legally bound, agree as follows:

1. **DEFINITIONS**
    For the purposes of this Agreement, the following terms and all other terms defined in this Agreement have the meanings so defined unless the context clearly indicates otherwise. A term defined in the singular shall include the plural and vice versa when the context so indicates.

    a. "Designated CPU" means the central processing unit that has been described and designated in Exhibit A.

    b. "Information" means specifications, drawings, sketches, models, manuals, samples, tools, computer programs, technical information and other confidential business, customer or personnel information or data (other than the Software), whether written, oral or otherwise.

    c. "Software" means the computer programs in object code form, documentation, and related information comprising the Cost Proxy Model (CPM) program.

2. **GRANT OF RIGHTS TO USE THE SOFTWARE**
    Subject to the terms of this Agreement, Licensors grant to Licensee a personal, nontransferable, nonexclusive, nonassignable, limited right to use the Software within the United States on the Designated CPU for internal business purposes only in connection with Licensee's participation in the Federal Communications Commission proceeding entitled "In the Matter of Federal-State Joint Board on Universal Service" (hereinafter referred to as "FCC Docket Number CC-96-45") .

3. **TERM**
    The right granted in Section 2 of this Agreement shall become effective upon delivery of the Software to Licensee and, unless sooner terminated or cancelled as provided herein, shall continue for such time as Licensee continues to participate in FCC Dockets Nos. CC-96-45 and 96-98 or any judicial appeal or review thereof.

4. **TITLE**
    Title to the Software shall remain solely in Licensors. Licensee shall have no right to sell, lease, license or otherwise transfer or dispose of any portion of the Software or any rights in or to any portion of the Software, without the express written consent of Licensors.

5. **LICENSE FEES AND TAXES**

    a. No license fee will be charged for use of the Software in connection with Licensee's participation in FCC Docket Number CC-96-45.

    b. If Licensee desires to make use of the Software for other commercial purposes, such use will be subject to a license fee to be negotiated in connection with a separate license.

c.   Licensee shall asses, pay and satisfy any use tax or sales tax obligation which may be imposed upon the license and delivery of the Software in licensee's jurisdiction and shall provide Licensors with evidence that is has satisfied such obligations. Licensee shall indemnify and hold harmless Licensors from any tax, penalty, interest, or late charge which may be imposed upon Licensees as a result of any such use tax or sales tax obligation.

6.   PROTECTION OF SOFTWARE

a.   Licensee agrees that the Software is a valuable proprietary trade secret of Licensors, and Licensee will maintain it in the strictest confidence. Licensee agrees not to use, print, copy, provide or otherwise disclose, in whole or in part, any portion of the Software except in accordance with this Agreement. Licensee agrees to maintain and implement adequate procedures, satisfactory to Licensors, to protect the confidentiality of the Software. At Licensors' request, Licensee shall provide Licensors with a copy of such procedures.

b.   Licensee may copy, in whole or in part, any portion of the Software as required for use by Licensee in accordance with this Agreement; provided, however, that no more than the original and one such copy will be in existence at any one time without the prior written consent of Licensors. Any reproduction shall include any copyright or similar proprietary notices contained in the items being reproduced. Licensee may not disassemble, decompile, reverse compile, or reverse engineer the Software and Licensee shall not use any copy the Software for any such purpose. Licensee agrees to maintain appropriate records of the number and locations of all copies of the Software. If the original or any copy of the Software is kept at other than the location of the Designated CPU, Licensee will notify Licensors in writing of the location of the original and such copy. The original and any copy of the Software or any portion thereof made by Licensee shall remain the property of Licensors and shall be returned to Licensors on the termination or cancellation of this Agreement.

c.   Licensee agrees to reproduce the following notice on all copies of the Software in any form, including archival copies:

This is an unpublished work protected by the United States copyright laws and is proprietary to Pacific Bell and INDETEC International, Inc. Disclosure, copying, reproduction, merger, translation, modification, enhancement or use by anyone other an authorized employees or licensees of Pacific Bell and INDETEC International, Inc. is prohibited.

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d.   Licensee agrees not to provide or otherwise make the Software available in any form to any person other than permanent employees of Licensee who are obligated by a written agreement to maintain in confidence third party trade secrets and know-how, licensed or otherwise, in the possession of Licensee, without the prior written consent of Licensors. Licensee agrees to advise all employees having access to the Software of the terms and conditions of this Agreement, including the proprietary trade secret nature of the Software.

e.   Licensee shall immediately notify Licensors of any information which comes to its attention which does or might indicate that there has been any loss of confidentiality of the

Software. In such event, Licensee shall take all steps within its power, including legal action, to limit or terminate the spread of such information.

7. LICENSORS' INFORMATION

In addition to Licensee's obligations to protect the Software, Licensee agrees that any Information of Licensors that is furnished or made available or otherwise disclosed to Licensee pursuant to this Agreement shall remain the property of Licensors. Unless any such Information was previously known to Licensee free of any obligation to keep it confidential, or becomes generally available to the public through acts not attributable to Licensee or an agent or contractor of Licensee, it shall be subject to the provisions set forth in this section 7 and (1) shall be held in confidence by Licensee and its employees, contractors or agents, and (2) shall be disclosed to only those of Licensee's employees, contractors or agents who have a need to know; and (3) may be released or disclosed to other persons only upon such terms and conditions as may be previously agreed to by Licensors in writing.

8. ASSIGNMENT

Neither this Agreement nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by Licensee without Licensor's prior written consent.

9. PATENTS

Nothing contained herein shall be construed as conferring by implication, estoppel or otherwise any license or right under any patent or trademark, whether or not the exercise of any right herein granted necessarily employs an invention of any existing or later issued patent.

10. LIMITATION OF LIABILITY

a. Licensors do not assume any liability for any errors or deficiencies or failure to disclose any errors or deficiencies discovered in the future in the Software, or for the inapplicability of the Software for Licensee's intended purposes.

b. The Software is being provided on an "AS IS" basis. Licensors shall not be obligated to provide to Licensee any changes (maintenance, enhancements or updating) in the Software or other support (technical or otherwise) in the use of the Software.

c. In no event shall Licensors be liable or responsible for any loss of, or damage to, any data, information or software of Licensee, whether or not any such loss or damage is related to the use of the Software. LICENSORS SHALL NOT BE LIABLE FOR ANY LOST PROFITS OR REVENUES OR FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL OR OTHER DAMAGES SUFFERED BY LICENSEE OR OTHERS RESULTING FROM THE USE OF THE SOFTWARE OR ARISING OUT OF BREACH OF WARRANTY.

11. WARRANTY AGAINST INFRINGEMENT

a. Licensors warrant that the Software does not infringe upon or violate any United States copyright. Should the Software become, or in Licensors' opinion be likely to become, the subject of any claim of copyright infringement or if the Software is held to constitute such an infringement and the use of such Software is enjoined, Licensors shall, at their expense and at their option, either (1) procure for Licensee the right to continue using the Software, (2) replace

or modify the Software to make it functionally equivalent and noninfringing, or (3) terminate the license.

        b.   Licensors shall have no liability for any claim of infringement based upon (1) use of other than the unmodified version of the Software made available to Licensee by Licensor if such infringement would have been avoided by the use of such version of the Software, or (2) use or combination of the Software with programs or data not recommended or specified by Licensors if such infringement would not have occurred without such use or combination.

        c.   The foregoing states the entire liability of Licensors with respect to any infringement of any patents, copyrights, trade secrets or other proprietary rights by the Software.

12. DISCLAIMER OF WARRANTY

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 11 ("WARRANTY AGAINST INFRINGEMENT") LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESSLY OR IMPLIEDLY, REGARDING THE SOFTWARE. BY WAY OF EXAMPLE BUT NOT OF LIMITATION, LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

13. GOVERNING LAW

The construction and performance of this Agreement shall be governed by the laws of the State of California.

14. NOTICES

All notices or other communications hereunder are deemed given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, and addressed as follows:

To: _____

          _____

          _____

          Attn: _____

To: Pacific Bell
          2600 Camino Ramon, Room 3S250II
          San Ramon, CA 94583
          Attn: P. Geiler

To: INDETEC International, Inc.
          351 La Amatista
          Del Mar, CA 92014
          Attn: D. Thompson, C.F.O.

The address to which notices or communications may be given by either party may be changed or written notice given by such party to the other pursuant to this section.

15. PUBLICITY

Licensee shall not use Licensor's names or any language, pictures or symbols which could, in Licensors' judgment, imply Licensors' identity in any (a) written or oral advertising or presentation or (b) brochure, newsletter, book, or other written material of whatever nature, except pleadings filed in F.C.C. Docket Number CC-96-45, without Licensors' prior written consent.

16. CANCELLATION

If either Licensors or Licensee are in material default of any of its obligations hereunder, and such default continues for 30 days after written notice thereof by the party or parties not in default, such nondefaulting party or parties may cancel this Agreement.

17. AMENDMENTS AND WAIVERS

This Agreement may be amended or modified only by a written document signed by the authorized representative of the party against whom enforcement is sought. No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a general waiver or relinquishment of such term, right or condition. Waiver by any party of any default shall not be deemed a waiver of any other default.

18. NO THIRD PARTY BENEFICIARIES

This Agreement is for the benefit of Licensors and Licensee and not for any other person.

19. SEVERABILITY

If any provision or any part of a provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable any other portion of this Agreement.

20. SURVIVAL

Provisions contained in this Agreement that by their sense and context are intended to survive completion of performance, termination or cancellation of this Agreement shall so survive.

21 ENTIRE AGREEMENT

This Agreement and all documents attached to or referenced herein constitute the entire agreement between Licensors and Licensee with respect to the subject matter.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

_____ _____

By: _____ _____

Title: _____ _____

Date Signed: _____ ____

Pacific Bell

By: _____ _____

Title: _____ _____

Date Signed: _____ _____

INDETEC International, Inc.

By: _____ _____

Title: _____ _____

Date Signed: _____ ___

EXHIBIT A

DESIGNATED CPU

CPU Type and Serial Number: _____

Address of CPU Location: _____ _____

_____

_____